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DOA:.....Wavrunek - Compile 1664 and 1665

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Do Not Gen

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*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Currently, the Parole Commission in DOC determines whether, and under what conditions, inmates serving indeterminate sentences may be released from imprisonment to parole. A person who is serving a bifurcated sentence is not eligible for parole and generally must serve the entire confinement portion of his or her bifurcated sentence before being released to extended supervision. However, a person who is sentenced to a bifurcated sentence for a Class C to Class I felony may petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under the bill, the Parole Commission is renamed the Earned Release Review Commission. In addition to its duties under current law, the Earned Release Review Commission may release to extended supervision: 1) a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the confinement portion of his or her sentence; and 2) a person convicted of any Class C to Class E felony if the person has served 85 percent of the confinement portion of his or her

sentence. The bill eliminates the authority of the sentencing court to adjust the confinement portion of a sentence.

The bill allows the Earned Release Review Commission to discharge a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision. The bill allows the Earned Release Review Commission to discharge a person convicted of a Class C to Class E felony after he or she has served 85 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision.

Under current law, a person sentenced under the "Truth in Sentencing" law serves a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community. With few exceptions, unless a person's sentence is adjusted by the sentencing court, a person may not be released to extended supervision until he or she has served the entire confinement portion of his or her sentence. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for a rule violation, current law requires the person's extended supervision to be reduced so that the total length of the person's sentence remains unchanged.

Under this bill, a person who is convicted of a nonviolent Class F to Class I felony must be released from confinement to extended supervision when he or she has served 66 percent of the confinement portion of his or her sentence, except that the confinement portion may be extended if the person violates a prison regulation. Under the bill, if a person's confinement portion is extended for a rule violation, the person's extended supervision is reduced so that the total length of the person's sentence remains unchanged.

Under current law, a person may not be discharged from extended supervision until after he or she serves the entire confinement portion and the entire extended supervision portion of his or her sentence.

Under this bill, a person who is convicted of a nonviolent Class F to Class I felony must be discharged from extended supervision when he or she completes 50 percent of the extended supervision portion of his or her sentence, if the person does not violate any rule or condition of his or her extended supervision.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 15.01 (2) of the statutes is amended to read:

2           15.01 (2) "Commission" means a 3-member governing body in charge of a  
3           department or independent agency or of a division or other subunit within a

1 department, except for the Wisconsin waterways commission which shall consist of  
2 5 members and the ~~parole~~ earned release review commission which shall consist of  
3 8 members. A Wisconsin group created for participation in a continuing interstate  
4 body, or the interstate body itself, shall be known as a “commission”, but is not a  
5 commission for purposes of s. 15.06. The ~~parole~~ earned release review commission  
6 created under s. 15.145 (1) shall be known as a “commission”, but is not a commission  
7 for purposes of s. 15.06.

8 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

9 15.06 (6) QUORUM. A majority of the membership of a commission constitutes  
10 a quorum to do business, except that vacancies shall not prevent a commission from  
11 doing business. This subsection does not apply to the ~~parole~~ earned release review  
12 commission.

13 **SECTION 3.** 15.145 (1) of the statutes is amended to read:

14 15.145 (1) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION. There is created in the  
15 department of corrections ~~a parole~~ an earned release review commission consisting  
16 of 8 members. Members shall have knowledge of or experience in corrections or  
17 criminal justice. The members shall include a chairperson who is nominated by the  
18 governor, and with the advice and consent of the senate appointed, for a 2-year term  
19 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),  
20 and the remaining members in the classified service appointed by the chairperson.

21 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

22 17.07 (3m) Notwithstanding sub. (3), the ~~parole~~ earned release review  
23 commission chairperson may be removed by the governor, at pleasure.

24 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:

25 20.410 (2) (title) ~~PAROLE~~ EARNED RELEASE REVIEW COMMISSION.

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1       **SECTION 6.** 20.410 (2) (a) of the statutes is amended to read:

2       20.410 (2) (a) *General program operations.* The amounts in the schedule for  
3 the general program operations of the parole earned release review commission.

4       **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

5       20.923 (4) (b) 6. Parole Earned release review commission: chairperson.

6       **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

7       230.08 (2) (pd) The chairperson of the parole earned release review  
8 commission.

9       **SECTION 9.** 301.03 (3) of the statutes is amended to read:

10       301.03 (3) Administer parole, extended supervision and probation matters,  
11 except that the decision to grant or deny parole or to grant extended supervision  
12 under s. 304.06 (1) (b) to inmates shall be made by the parole earned release review  
13 commission and the decision to revoke probation, extended supervision or parole in  
14 cases in which there is no waiver of the right to a hearing shall be made by the  
15 division of hearings and appeals in the department of administration. The secretary  
16 may grant special action parole releases under s. 304.02. The department may  
17 discharge inmates from extended supervision under s. 973.01 (4m) and the earned  
18 release review commission may discharge inmates from extended supervision under  
19 s. 973.01 (4r). The department shall promulgate rules establishing a drug testing  
20 program for probationers, parolees and persons placed on extended supervision. The  
21 rules shall provide for assessment of fees upon probationers, parolees and persons  
22 placed on extended supervision to partially offset the costs of the program.

23       **SECTION 10.** 301.048 (2) (am) 3. of the statutes is amended to read:

1           301.048 (2) (am) 3. The parole earned release review commission grants him  
2           or her parole under s. 304.06 and requires his or her participation in the program as  
3           a condition of parole under s. 304.06 (1x).

4           **SECTION 11.** 301.21 (1m) (c) of the statutes is amended to read:

5           301.21 (1m) (c) Any hearing to consider parole or whether to grant extended  
6           supervision, if the inmate is sentenced under s. 973.01 to which an inmate confined  
7           under this contract may be entitled by the laws of Wisconsin will be conducted by the  
8           Wisconsin parole earned release review commission under rules of the department.

9           **SECTION 12.** 301.21 (2m) (c) of the statutes is amended to read:

10          301.21 (2m) (c) Any hearing to consider parole or whether to grant extended  
11          supervision, if the prisoner is sentenced under s. 973.01 to which a prisoner confined  
12          under a contract under this subsection may be entitled by the laws of Wisconsin shall  
13          be conducted by the Wisconsin parole earned release review commission under rules  
14          of the department.

15          **SECTION 13.** 302.045 (3) of the statutes is amended to read:

16          302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department  
17          determines that an inmate serving a sentence other than one imposed under s.  
18          973.01 has successfully completed the challenge incarceration program, the parole  
19          earned release review commission shall parole the inmate for that sentence under  
20          s. 304.06, regardless of the time the inmate has served. When the parole earned  
21          release review commission grants parole under this subsection, it must require the  
22          parolee to participate in an intensive supervision program for drug abusers as a  
23          condition of parole.

24          **SECTION 14.** 302.05 (3) (b) of the statutes is amended to read:

1           302.05 (3) (b) Except as provided in par. (d), if the department determines that  
2           an eligible inmate serving a sentence other than one imposed under s. 973.01 has  
3           successfully completed a treatment program described in sub. (1), the parole earned  
4           release review commission shall parole the inmate for that sentence under s. 304.06,  
5           regardless of the time the inmate has served. If the parole earned release review  
6           commission grants parole under this paragraph, it shall require the parolee to  
7           participate in an intensive supervision program for drug abusers as a condition of  
8           parole.

9           **SECTION 15.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

10           302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive  
11           mandatory release date reaches the presumptive mandatory release date specified  
12           under par. (am), the parole earned release review commission shall proceed under  
13           s. 304.06 (1) to consider whether to deny presumptive mandatory release to the  
14           inmate. If the parole earned release review commission does not deny presumptive  
15           mandatory release, the inmate shall be released on parole. The parole earned release  
16           review commission may deny presumptive mandatory release to an inmate only on  
17           one or more of the following grounds:

18           **SECTION 16.** 302.11 (1g) (b) 2. of the statutes is amended to read:

19           302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or  
20           treatment that the social service and clinical staff of the institution determines is  
21           necessary for the inmate, including pharmacological treatment using an  
22           antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious  
23           child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review  
24           commission may not deny presumptive mandatory release to an inmate because of  
25           the inmate's refusal to participate in a rehabilitation program under s. 301.047.

1           **SECTION 17.** 302.11 (1g) (c) of the statutes is amended to read:

2           302.11 (1g) (c) If the parole earned release review commission denies  
3 presumptive mandatory release to an inmate under par. (b), the parole earned  
4 release review commission shall schedule regular reviews of the inmate's case to  
5 consider whether to parole the inmate under s. 304.06 (1).

6           **SECTION 18.** 302.11 (1g) (d) of the statutes is amended to read:

7           302.11 (1g) (d) An inmate may seek review of a decision by the parole earned  
8 release review commission relating to the denial of presumptive mandatory release  
9 only by the common law writ of certiorari.

10          **SECTION 19.** 302.11 (1m) of the statutes is amended to read:

11          302.11 (1m) An inmate serving a life term is not entitled to mandatory release.  
12 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release  
13 review commission may parole the inmate as specified in s. 304.06 (1).

14          **SECTION 20.** 302.11 (7) (c) of the statutes is amended to read:

15          302.11 (7) (c) The parole earned release review commission may subsequently  
16 parole, under s. 304.06 (1), and the department may subsequently parole, under s.  
17 304.02, a parolee who is returned to prison for violation of a condition of parole.

18          **SECTION 21.** 302.113 (1) of the statutes is amended to read:

19          302.113 (1) An inmate is subject to this section if he or she was convicted of a  
20 Class B felony or a Class F to Class I felony that is not a violent offense, as defined  
21 in s. 301.048 (2) (bm) 1. and is serving a bifurcated sentence imposed under s. 973.01.  
22 An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that  
23 is a violent offense, as defined in s. 301.048 (2) (bm) 1. may only be released to  
24 extended supervision under s. 304.06.

1       **SECTION 22.** 302.113 (2) of the statutes is renumbered 302.113 (2) (a) and  
2 amended to read:

3       302.113 (2) (a) Except as provided in par. (b) and subs. (3) and (9), an inmate  
4 subject to this section is entitled to release to extended supervision after he or she  
5 has served the term of confinement in prison portion of the sentence imposed under  
6 s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)  
7 1., or 302.05 (3) (c) 2. a., ~~or 973.195 (1r)~~, if applicable.

8       **SECTION 23.** 302.113 (2) (b) of the statutes is created to read:

9       302.113 (2) (b) Except as provided in sub. (3), the department shall release an  
10 inmate subject to this section to extended supervision after he or she has served 66  
11 percent of the term of confinement in prison portion of the sentence imposed under  
12 s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)  
13 1. or 302.05 (3) (c) 2. a., if applicable, if the inmate was convicted of a Class F to I  
14 felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1.

15       **SECTION 24.** 302.113 (3) (d) of the statutes is amended to read:

16       302.113 (3) (d) If the term of confinement in prison portion of a bifurcated  
17 sentence for a Class B felony is increased under this subsection, the term of extended  
18 supervision is reduced so that the total length of the bifurcated sentence does not  
19 change.

20       **SECTION 25.** 302.113 (7) of the statutes is amended to read:

21       302.113 (7) Any inmate released to extended supervision under this section is  
22 subject to all conditions and rules of extended supervision until the expiration of the  
23 term of extended supervision portion of the bifurcated sentence or until the  
24 department discharges the inmate under s. 973.01 (4m), whichever is appropriate.  
25 The department may set conditions of extended supervision in addition to any



1 conditions of extended supervision required under s. 302.116, if applicable, or set by  
2 the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do  
3 not conflict with the court's conditions.

4 **SECTION 26.** 302.113 (9) (c) of the statutes is amended to read:

5 302.113 (9) (c) A person who is subsequently released to extended supervision  
6 after service of the period of time specified by the court under par. (am) is subject to  
7 all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration  
8 of the remaining extended supervision portion of the bifurcated sentence or until the  
9 department discharges the person under s. 973.01 (4m), whichever is appropriate.

10 The remaining extended supervision portion of the bifurcated sentence is the total  
11 length of the bifurcated sentence, less the time served by the person in confinement  
12 under the bifurcated sentence before release to extended supervision under sub. (2)  
13 and less all time served in confinement for previous revocations of extended  
14 supervision under the bifurcated sentence.

15 **SECTION 27.** 302.114 (9) (c) of the statutes is amended to read:

16 302.114 (9) (c) A person who is subsequently released to extended supervision  
17 under par. (bm) is subject to all conditions and rules under sub. (8) until the  
18 expiration of the sentence or until the department discharges the person under s.  
19 973.01 (4m), whichever is appropriate.

20 **SECTION 28.** 304.01 (title) of the statutes is amended to read:

21 **304.01 (title) Parole Earned release review commission and**  
22 **commission chairperson; general duties.**

23 **SECTION 29.** 304.01 (1) of the statutes is amended to read:

24 304.01 (1) The chairperson of the ~~parole~~ earned release review commission  
25 shall administer and supervise the commission and its activities and shall be the

1 final ~~parole granting~~ authority for granting parole or release to extended  
2 supervision, except as provided in s. 304.02.

3 SECTION 30. 304.01 (2) (intro.) of the statutes is amended to read:

4 304.01 (2) (intro.) The parole earned release review commission shall conduct  
5 regularly scheduled interviews to consider the parole or release to extended  
6 supervision of eligible inmates of the adult correctional institutions under the  
7 control of the department of corrections, eligible inmates transferred under ch. 51  
8 and under the control of the department of health services and eligible inmates in  
9 any county house of correction. The department of corrections shall provide all of the  
10 following to the parole earned release review commission:

11 SECTION 31. 304.01 (2) (b) of the statutes is amended to read:

12 304.01 (2) (b) Scheduling assistance for parole interviews for prisoners who  
13 have applied for parole or release to extended supervision at the correctional  
14 institutions.

15 SECTION 32. 304.01 (2) (c) of the statutes is amended to read:

16 304.01 (2) (c) Clerical support related to the parole interviews for prisoners who  
17 have applied for parole or release to extended supervision.

18 SECTION 33. 304.01 (2) (d) of the statutes is amended to read:

19 304.01 (2) (d) Appropriate physical space at the correctional institutions to  
20 conduct the parole interviews for prisoners who have applied for parole or release to  
21 extended supervision.

22 SECTION 34. 304.06 (title) of the statutes is amended to read:

23 304.06 (title) **Paroles Release to parole or extended supervision from**  
24 **state prisons and house of correction.**

25 SECTION 35. 304.06 (1) (b) of the statutes is amended to read:

1           304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.  
2           302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review  
3           commission may parole an inmate of the Wisconsin state prisons or any felon or any  
4           person serving at least one year or more in a county house of correction or a county  
5           reforestation camp organized under s. 303.07, when he or she has served 25% of the  
6           sentence imposed for the offense, or 6 months, whichever is greater. The earned  
7           release review commission may release to extended supervision a person sentenced  
8           under s. 973.01 for a Class F to Class I felony that is a violent offense, as defined in  
9           s. 301.048 (2) (bm), after the person has served at least 75 percent of the term of  
10          confinement in prison portion of the sentence. The earned release review  
11          commission may release to extended supervision a person sentenced under s. 973.01  
12          for a Class C to Class E felony after the person has served at least 85 percent of the  
13          term of confinement in prison portion of the sentence. Except as provided in s. 939.62  
14          (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole earned release review  
15          commission may parole an inmate serving a life term when he or she has served 20  
16          years, as modified by the formula under s. 302.11 (1) and subject to extension under  
17          s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given  
18          credit for time served prior to sentencing under s. 973.155, including good time under  
19          s. 973.155 (4). The secretary may grant special action parole releases under s.  
20          304.02. The department or the parole earned release review commission shall not  
21          provide any convicted offender or other person sentenced to the department's custody  
22          any parole eligibility or evaluation for parole or release to extended supervision until  
23          the person has been confined at least 60 days following sentencing.

24           **SECTION 36.** 304.06 (1) (bn) of the statutes is created to read:

1           304.06 (1) (bn) The earned release review commission may consider any of the  
2 following in determining whether to release to extended supervision a person who  
3 is sentenced under s. 973.01 for a Class C to Class E felony or for a Class F to Class  
4 I felony that is a violent offense, as defined in s. 301.048 (2) (bm):

5           1. The inmate's conduct, efforts at and progress in rehabilitation, or  
6 participation and progress in education, treatment, or other correctional programs  
7 since he or she was sentenced.

8           2. The inmate is subject to a sentence of confinement in another state or the  
9 inmate is in the United States illegally and may be deported.

10          3. Sentence adjustment is otherwise in the interests of justice.

11          **SECTION 37.** 304.06 (1) (br) of the statutes is created to read:

12          304.06 (1) (br) The earned release review commission may reduce the term of  
13 confinement of a person who is sentenced under s. 973.01 for a Class C to Class E  
14 felony or for a Class F to Class I felony that is a violent offense, as defined in s.  
15 301.048 (2) (bm) only as follows:

16          1. If the inmate is serving the term of confinement in prison portion of the  
17 sentence, a reduction in the term of confinement in prison by the amount of time  
18 remaining in the term of confinement in prison portion of the sentence, less up to 30  
19 days, and a corresponding increase in the term of extended supervision.

20          2. If the inmate is confined in prison upon revocation of extended supervision,  
21 a reduction in the amount of time remaining in the period of confinement in prison  
22 imposed upon revocation, less up to 30 days, and a corresponding increase in the term  
23 of extended supervision.

24          **SECTION 38.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

1           304.06 (1) (c) (intro.) If an inmate applies for parole or release to extended  
2 supervision under this subsection, the parole earned release review commission  
3 shall make a reasonable attempt to notify the following, if they can be found, in  
4 accordance with par. (d):

5           **SECTION 39.** 304.06 (1) (d) 1. of the statutes is amended to read:

6           304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons  
7 under par. (c) 1. to 3. of the manner in which they may provide written statements  
8 under this subsection, shall inform persons under par. (c) 3. of the manner in which  
9 they may attend interviews or hearings and make statements under par. (eg) and  
10 shall inform persons under par. (c) 3. who are victims, or family members of victims,  
11 of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)  
12 or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input  
13 in the parole decision-making process under par. (em) for parole or release to  
14 extended supervision. The parole earned release review commission shall provide  
15 notice under this paragraph for an inmate's first application for parole or release to  
16 extended supervision and, upon request, for subsequent applications for parole or  
17 release to extended supervision.

18           **SECTION 40.** 304.06 (1) (e) of the statutes is amended to read:

19           304.06 (1) (e) The parole earned release review commission shall permit any  
20 office or person under par. (c) 1. to 3. to provide written statements. The parole  
21 earned release review commission shall give consideration to any written statements  
22 provided by any such office or person and received on or before the date specified in  
23 the notice. This paragraph does not limit the authority of the parole earned release  
24 review commission to consider other statements or information that it receives in a  
25 timely fashion.

1       **SECTION 41.** 304.06 (1) (eg) of the statutes is amended to read:

2       304.06 (1) (eg) The ~~parole~~ earned release review commission shall permit any  
3       person under par. (c) 3. to attend any interview or hearing on the ~~parole~~ application  
4       for parole or release to extended supervision of an applicable inmate and to make a  
5       statement at that interview or hearing.

6       **SECTION 42.** 304.06 (1) (em) of the statutes is amended to read:

7       304.06 (1) (em) The ~~parole~~ earned release review commission shall promulgate  
8       rules that provide a procedure to allow any person who is a victim, or a family  
9       member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or,~~  
10      (2), ~~or (3),~~ 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the ~~parole~~  
11      decision-making process for parole or release to extended supervision.

12      **SECTION 43.** 304.06 (1) (f) of the statutes is amended to read:

13      304.06 (1) (f) The ~~parole~~ earned release review commission shall design and  
14      prepare cards for persons specified in par. (c) 3. to send to the commission. The cards  
15      shall have space for these persons to provide their names and addresses, the name  
16      of the applicable prisoner and any other information the ~~parole~~ earned release  
17      review commission determines is necessary. The ~~parole~~ earned release review  
18      commission shall provide the cards, without charge, to district attorneys. District  
19      attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.  
20      These persons may send completed cards to the ~~parole~~ earned release review  
21      commission. All commission records or portions of records that relate to mailing  
22      addresses of these persons are not subject to inspection or copying under s. 19.35 (1).  
23      Before any written statement of a person specified in par. (c) 3. is made a part of the  
24      documentary record considered in connection with a ~~parole~~ hearing for parole, or  
25      release to extended supervision under this section, the ~~parole~~ earned release review

1 commission shall obliterate from the statement all references to the mailing  
2 addresses of the person. A person specified in par. (c) 3. who attends an interview  
3 or hearing under par. (eg) may not be required to disclose at the interview or hearing  
4 his or her mailing addresses.

5 **SECTION 44.** 304.06 (1) (g) of the statutes is amended to read:

6 304.06 (1) (g) Before a person is released on parole or released to extended  
7 supervision under this subsection, the parole earned release review commission  
8 shall so notify the municipal police department and the county sheriff for the area  
9 where the person will be residing. The notification requirement under this  
10 paragraph does not apply if a municipal department or county sheriff submits to the  
11 parole earned release review commission a written statement waiving the right to  
12 be notified. If applicable, the department shall also comply with s. 304.063.

13 **SECTION 45.** 304.06 (1m) (intro.) of the statutes is amended to read:

14 304.06 (1m) (intro.) The parole earned release review commission may waive  
15 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of  
16 the following circumstances:

17 **SECTION 46.** 304.06 (1q) (b) of the statutes is amended to read:

18 304.06 (1q) (b) The parole earned release review commission or the department  
19 may require as a condition of parole that a serious child sex offender undergo  
20 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
21 antiandrogen. This paragraph does not prohibit the department from requiring  
22 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
23 antiandrogen as a condition of probation.

24 **SECTION 47.** 304.06 (1q) (c) of the statutes is amended to read:

1           304.06 (1q) (c) In deciding whether to grant a serious child sex offender release  
2 on parole under this subsection, the parole earned release review commission may  
3 not consider, as a factor in making its decision, that the offender is a proper subject  
4 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
5 an antiandrogen or that the offender is willing to participate in pharmacological  
6 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.

7           **SECTION 48.** 304.06 (1x) of the statutes is amended to read:

8           304.06 (1x) The parole earned release review commission may require as a  
9 condition of parole that the person is placed in the intensive sanctions program under  
10 s. 301.048. In that case, the person is in the legal custody of the department under  
11 that section and is subject to revocation of parole under sub. (3).

12           **SECTION 49.** 304.06 (2m) (d) of the statutes is amended to read:

13           304.06 (2m) (d) The parole earned release review commission or the  
14 department shall determine a prisoner's county of residence for the purposes of this  
15 subsection by doing all of the following:

16           1. The parole earned release review commission or the department shall  
17 consider residence as the voluntary concurrence of physical presence with intent to  
18 remain in a place of fixed habitation and shall consider physical presence as prima  
19 facie evidence of intent to remain.

20           2. The parole earned release review commission or the department shall apply  
21 the criteria for consideration of residence and physical presence under subd. 1. to the  
22 facts that existed on the date that the prisoner committed the serious sex offense that  
23 resulted in the sentence the prisoner is serving.

24           **SECTION 50.** 304.071 (1) of the statutes is amended to read:



1           304.071 (1) The ~~parole~~ earned release review commission may at any time  
2       grant a parole or release to extended supervision to any prisoner in any penal  
3       institution of this state, or the department may at any time suspend the supervision  
4       of any person who is on probation ~~or~~, parole, or extended supervision to the  
5       department, if the prisoner or person on probation ~~or~~, parole, or extended supervision  
6       is eligible for induction into the U.S. armed forces. The suspension of parole,  
7       extended supervision, or probation shall be for the duration of his or her service in  
8       the armed forces; and the parole, extended supervision, or probation shall again  
9       become effective upon his or her discharge from the armed forces in accordance with  
10      regulations prescribed by the department. If he or she receives an honorable  
11      discharge from the armed forces, the governor may discharge him or her and the  
12      discharge has the effect of a pardon. Upon the suspension of parole, extended  
13      supervision, or probation by the department, the department shall issue an order  
14      setting forth the conditions under which the parole, extended supervision, or  
15      probation is suspended, including instructions as to where and when and to whom  
16      the ~~paroled~~ person on parole or extended supervision shall report upon discharge  
17      from the armed forces.

18           **SECTION 51.** 809.30 (1) (c) of the statutes is amended to read:

19           809.30 (1) (c) "Postconviction relief" means an appeal or a motion for  
20      postconviction relief in a criminal case, other than an appeal, motion, or petition  
21      under ss. 302.113 (7m), 302.113 (9g), 973.19, ~~973.195~~, 974.06, or 974.07 (2). In a ch.  
22      980 case, the term means an appeal or a motion for postcommitment relief under s.  
23      980.038 (4).

24           **SECTION 52.** 911.01 (4) (c) of the statutes is amended to read:

1           911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
2 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
3 sentence under s. 302.113 (9g), ~~adjustment of a bifurcated sentence under s. 973.195~~  
4 ~~(1r) release to extended supervision under s. 302.113 (2) (b) or 304.06 (1) (b), or~~  
5 ~~discharge under s. 973.01 (4m) or (4r),~~ issuance of arrest warrants, criminal  
6 summonses and search warrants; hearings under s. 980.09 (2); proceedings under s.  
7 971.14 (1) (c); proceedings with respect to pretrial release under ch. 969 except where  
8 habeas corpus is utilized with respect to release on bail or as otherwise provided in  
9 ch. 969.

10           **SECTION 53.** 950.04 (1v) (f) of the statutes is amended to read:

11           950.04 (1v) (f) To have the parole earned release review commission make a  
12 reasonable attempt to notify the victim of applications for parole or release to  
13 extended supervision, as provided under s. 304.06 (1).

14           **SECTION 54.** 950.04 (1v) (gm) of the statutes is amended to read:

15           950.04 (1v) (gm) To have reasonable attempts made to notify the victim of  
16 petitions for ~~sentence adjustment as provided~~ release to extended supervision under  
17 s. ~~973.195 (1r) (d)~~ 302.113 (2) (b) or 304.06 (1) (b) or discharge under s. 973.01 (4m)  
18 or (4r).

19           **SECTION 55.** 973.01 (4) of the statutes is repealed.

20           **SECTION 56.** 973.01 (4) of the statutes is amended to read:

21           973.01 (4) ~~NO GOOD TIME; EXTENSION~~ EXTENSION OR REDUCTION OF TERM OF  
22 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve  
23 the term of confinement in prison portion of the sentence without reduction for good  
24 behavior. The term of confinement in prison portion is subject to extension under s.

1 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a.,  
2 302.113 (2) (b) or (9g), or 973.195 (1r) 304.06 (1) (b).

3 **SECTION 57.** 973.01 (4m) of the statutes is created to read:

4 973.01 (4m) GOOD TIME CREDIT TOWARD DISCHARGE FROM EXTENDED SUPERVISION.  
5 Notwithstanding sub. (2) (d), a person convicted of a Class F to Class I felony that  
6 is not a violent offense, as defined in s. 301.048 (2) (bm) 1., is eligible to earn good time  
7 credit in the amount of one day for every day served without violating a rule or  
8 condition of extended supervision. The department of corrections shall reduce the  
9 length of the person's extended supervision to reflect good time earned by the person  
10 under this subsection.

11 **SECTION 58.** 973.01 (4r) of the statutes is created to read:

12 973.01 (4r) APPLICATION FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.  
13 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.  
14 (1) for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2)  
15 (bm), may apply to the earned release review commission to have his or her period  
16 of extended supervision reduced after he or she has served 75 percent of the extended  
17 supervision portion of the sentence.

18 2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence  
19 under sub. (1) for a Class C to Class E felony may apply to the earned release review  
20 commission to have his or her period of extended supervision reduced after he or she  
21 has served 85 percent of the extended supervision portion of the sentence.

22 (b) The earned release review commission may reduce the length of a person's  
23 period of extended supervision if it finds that the person has met the conditions of  
24 extended supervision and a reduction is in the interests of justice.

25 **SECTION 59.** 973.01 (7) of the statutes is amended to read:

1           973.01 (7) ~~NO-DISCHARGE~~ DISCHARGE. The department of corrections ~~may not~~  
2   shall discharge a person who is serving a bifurcated sentence from custody, control  
3   and supervision ~~until~~ when the person has served the entire bifurcated sentence, as  
4   modified under sub. (4m) or (4r) and s. 302.113 (2) (b) or 304.06 (1) (b), if applicable.

5           **SECTION 60.** 973.01 (8) (a) 2. of the statutes is amended to read:

6           973.01 (8) (a) 2. The amount of time the person will serve in prison under the  
7   term of confinement in prison portion of the sentence, and the date upon which the  
8   person is eligible to be released to extended supervision under s. 302.113 (2) (b) or  
9   the date upon which the person may apply for release to extended supervision under  
10   s. 304.06.

11          **SECTION 61.** 973.01 (8) (a) 3. of the statutes is amended to read:

12          973.01 (8) (a) 3. The amount of time the person will spend on extended  
13   supervision, assuming that the person does not commit any act that results in the  
14   extension of the term of confinement in prison under s. 302.113 (3), and the date upon  
15   which the person may be eligible for discharge under sub. (4m) or apply for a  
16   reduction of his or her period of extended supervision under sub. (4r).

17          **SECTION 62.** 973.195 of the statutes is repealed.

18          **SECTION 63.** 974.07 (4) (b) of the statutes is amended to read:

19          974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing  
20   addresses from completed information cards submitted by victims under ss. 51.37  
21   (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),  
22   304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,  
23   the parole earned release review commission, and the department of health services  
24   shall, upon request, assist clerks of court in obtaining information regarding the

1 mailing address of victims for the purpose of sending copies of motions and notices  
2 of hearings under par. (a).

3 **SECTION 64.** 976.03 (23) (c) of the statutes is amended to read:

4 976.03 (23) (c) The application shall be verified by affidavit, shall be executed  
5 in duplicate and shall be accompanied by 2 certified copies of the indictment  
6 returned, or information and affidavit filed, or of the complaint made to a judge,  
7 stating the offense with which the accused is charged, or of the judgment of  
8 conviction or of the sentence. The prosecuting officer, ~~parole~~ earned release review  
9 commission, warden or sheriff may also attach such further affidavits and other  
10 documents in duplicate as he, she or it deems proper to be submitted with the  
11 application. One copy of the application, with the action of the governor indicated  
12 by endorsement thereon, and one of the certified copies of the indictment, complaint,  
13 information and affidavits, or of the judgment of conviction or of the sentence shall  
14 be filed in the office of the governor to remain of record in that office. The other copies  
15 of all papers shall be forwarded with the governor's requisition.

16 (END)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P2ins  
PJH:jld&wlj:ph

**INSERT 8.19:**

**SECTION ~~1~~** 302.113 (3) (e) of the statutes is created to read:

302.113 (3) (e) If an inmate is released to extended supervision under sub. (2) (b) after he or she has served less than his or her entire confinement in prison portion of the sentence imposed under s. 973.01, the term of extended supervision is increased so that the total length of the bifurcated sentence does not change.

**INSERT 12.23:**

**SECTION 2.** 304.06 (1) (bt) of the statutes is created to read:

304.06 (1) (bt) If an inmate is released to extended supervision under sub. (1) (b) after he or she has served less than his or her entire confinement in prison portion of the sentence imposed under s. 973.01, the term of extended supervision is increased so that the total length of the bifurcated sentence does not change.

**Hurley, Peggy**

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**From:** Ozanne, Ismael R - DOC [Ismael.Ozanne@Wisconsin.gov]  
**Sent:** Monday, January 26, 2009 8:09 AM  
**To:** Steinmetz, Jana D - DOA  
**Cc:** Wavrunek, Leah J - DOA; Silver, Karina B - DOA; Hurley, Peggy  
**Subject:** RE: LRB Draft: 09-1768/P2 Compile 1664 and 1665

Sorry it took so long for me to get back to every one. Had to change my password from home then got locked out till I could get in this AM. I think we need the calculation of this so called "good time" and the "formula" of what gets the offender to the sweet spot of being put on ES for non violent offenders or the ability to petition the ER commission for C-E's and F-I's who don't qualify for the non violent track. This also needs to be done for the ES portion. If this is not done it reads as if at 66% non violent just get out, and at 75% & 85% the rest can just get out. The calculations and formula will limit who is eligible to get out and also petition by tying their ability to do so with their behavior in the institution. I think "Good Time" should be called "Positive Adjustment Time", because this doesn't shorten an offenders time of incarceration but will only allow him or her to move for adjustment when the actual [Time Served + Positive Adjustment Time = Total Incarceration Time] of the Bifurcated sentence, "good time" will give the wrong impression as people will see it as shorting the sentence. So if an offender is perfect the earliest he/she will be eligible for sentence adjustment would be 66% for non violent F-I's, and 75% for all other F-I's, and C-E's at 85% but the violent F-I's & C-E's only get the ability to petition and be considered. ES would be extended by the amount the incarceration time is shortened, this is fine in the language. And on ES a non violent F-I will need [Time Served on ES + Positive Adjustment Time = Total New ES time] to get off ES. The non violent F-I will receive "Positive Adjustment Time" at a day for day [1 for 1] rate while on ES and not in revo status ect... like is stated now, which looks fine to me. The rest F-I's & C-E's while on ES earn "Positive Adjustment Time" at the same rate they did while incarcerated so that if perfect the earliest they could petition for release from ES would be when their [Time Served on ES + Positive Adjustment Time = Total New ES time], F-I's violent = 75% earliest, & C-E's 85% earliest possible petition date and possible release date from ES. If this makes sense or not we should maybe have a conference call.

---

**From:** Steinmetz, Jana D - DOA  
**Sent:** Sunday, January 25, 2009 4:40 PM  
**To:** Ozanne, Ismael R - DOC  
**Cc:** Wavrunek, Leah J - DOA; Silver, Karina B - DOA  
**Subject:** FW: LRB Draft: 09-1768/P2 Compile 1664 and 1665

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**From:** Duchek, Michael [mailto:Michael.Duchek@legis.wisconsin.gov]  
**Sent:** Sunday, January 25, 2009 3:36 PM  
**To:** Wavrunek, Leah J - DOA  
**Cc:** Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA  
**Subject:** LRB Draft: 09-1768/P2 Compile 1664 and 1665

Following is the PDF version of draft 09-1768/P2.

**Hurley, Peggy**


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**From:** Ozanne, Ismael R - DOC [Ismael.Ozanne@Wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 12:05 PM  
**To:** Hurley, Peggy  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** RE:

Don't worry about being difficult, we want to get it right. I think SBN's will cover it since all 980's need a determination of SBN from either DOC or DHS. So I think if SBN's are not eligible we are covered.

---

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 12:02 PM  
**To:** Ozanne, Ismael R - DOC  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** RE:

That would be simpler. I swear, I am not trying to make this difficult!

---

**From:** Ozanne, Ismael R - DOC [mailto:Ismael.Ozanne@Wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 11:58 AM  
**To:** Hurley, Peggy  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** RE:

I am checking to see if there would ever be a SBN who wouldn't be a 980, so maybe we could just worry about SBN's. Since we would know the SBN determination at time of sentencing.

---

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 11:42 AM  
**To:** Steinmetz, Jana D - DOA; Ozanne, Ismael R - DOC  
**Cc:** Wavrunek, Leah J - DOA  
**Subject:** RE:

Okay. How does DOC know whether someone is subject to a chapter 980 petition? If DOC is to keep track of possible positive adjustment time, I assume they'll do it for everyone. It appears to me from the statutes (although I don't know how it works in "real life") that a ch. 980 petition doesn't arise until the person nears his/her time of release. If someone is serving, say, 10 years incarceration, DOC would need to petition for a 980 at 6.6 years, if the person earned all of his/her positive adjustment time. But is there a way for DOC to "know" that the person isn't eligible to earn positive release time, so that DOC wouldn't be preparing a 980 petition until the 10 years are up?

---

**From:** Steinmetz, Jana D - DOA [mailto:Jana.Steinmetz@Wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 11:37 AM  
**To:** Hurley, Peggy; Ozanne, Ismael R - DOC  
**Cc:** Wavrunek, Leah J - DOA  
**Subject:** RE:

The goal is to make sure anyone subject to a CH980 petition or who is a level 1 or level 2 special bulletin notification sex offender is not eligible to earn positive adjustment time.

As we thought it through, drafting it for anyone required to register on the registry is too broad.

---

**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]  
**Sent:** Tuesday, January 27, 2009 8:22 AM  
**To:** Ozanne, Ismael R - DOC

01/27/2009



**Cc:** Steinmetz, Jana D - DOA; Wavrunek, Leah J - DOA

**Subject:** RE:

Good morning!

I've been thinking more about this. I am not sure that an exception needs to be carved out for potential 980s (I'm not sure about the special bulletin folks) because chapter 980 trumps any pending release under current law, whether it is to parole, extended supervision, or otherwise. There is no exception for potential 980s or anyone else in current law when it comes to mandatory release to parole at 2/3 of their sentences, even though those folks could be put into a 980. Similarly, there is no exception for potential 980s in the mandatory release to extended supervision at the completion of their incarceration period. I am concerned that if we DO draft a special exception for "adjusted" release to extended supervision, the presumption would be that there is no exception for the other types of release. Your thoughts?

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**From:** Hurley, Peggy

**Sent:** Monday, January 26, 2009 3:48 PM

**To:** Ozanne, Ismael R - DOC

**Cc:** Steinmetz, Jana D - DOA

**Subject:** RE:

I answered my own question regarding sex offenders, I think. There ARE some F to I felonies that could be considered "sexually violent offenses" for the purposes of chapter 980. Some of them are even "non-violent" under s. 301.048 (2) (bm) 1. Similarly, there are some offenses that could be considered sexually violent offenses that do NOT require a person to register under s. 301.45.

I am not exactly sure how you want this worded. Do you want the nonviolent F to Is to not earn positive adjustment time at all? I think that whatever limitation we draft for the nonviolent F to Is won't be necessary to draft for the violent F to Is or the C to Es, because the ERRC will be reviewing all of those offenders before deciding whether to release. Do you agree?

Also, the "special bulletin notification" doesn't appear anywhere in the statutes. If you want me to include this limitation in the draft, please send me or point me to a definition or cross-reference. Thanks!

---

**From:** Ozanne, Ismael R - DOC [mailto:Ismael.Ozanne@Wisconsin.gov]

**Sent:** Monday, January 26, 2009 2:59 PM

**To:** Hurley, Peggy

**Cc:** Steinmetz, Jana D - DOA

**Subject:** RE:

Peggy,

Just got a chance to shoot you a note. Sorry for the delay. On the risk assessment portion in the categories they would like to add a criteria that crimes involving a weapon i.e. carrying a concealed weapon which is a misdemeanor also be included in the supervision section. In the sentencing adjustment section there should be some language regarding sex offenders such that no sex offenders will be considered unless the Secretary of the Department of Corrections makes the determination that the offense is one that the department will not seek Ch 980, or SBN (Special Bulletin Notification = sexual predator) status for.

Jana I believe was working the numbers to put in to the calculations, for the last draft. I thought it was good. Maybe we could all touch base on the phone a little later.

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**From:** Hurley, Peggy [mailto:Peggy.Hurley@legis.wisconsin.gov]

**Sent:** Monday, January 26, 2009 9:42 AM

**To:** Steinmetz, Jana D - DOA; Wavrunek, Leah J - DOA; Silver, Karina B - DOA; Ozanne, Ismael R - DOC

**Subject:**

Hi Everyone,

Here is what I've drafted. These sections will take the place of what is in LRB 1768/P2. Note that I haven't done the math yet for the violent Class F to Is or the Class C to Es - if any of you is a math whiz, please help me out! Let me know what you think.

01/27/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1768/P2  
PJH:jld&wlj:md  
/nwn

DOA:.....Wavrunek, BB0520 - Compile 1664 and 1665

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1-27-09

don't gen.

1 AN ACT ...; relating to: the budget.✓

*Analysis by the Legislative Reference Bureau*

**CORRECTIONAL SYSTEM**

**ADULT CORRECTIONAL SYSTEM**

Currently, the Parole Commission in DOC determines whether, and under what conditions, inmates serving indeterminate sentences may be released from imprisonment to parole. A person who is serving a bifurcated sentence is not eligible for parole and generally must serve the entire confinement portion of his or her bifurcated sentence before being released to extended supervision. However, a person who is sentenced to a bifurcated sentence for a Class C to Class I felony may petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under the bill, the Parole Commission is renamed the Earned Release Review Commission. In addition to its duties under current law, the Earned Release Review Commission may release to extended supervision: 1) a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the confinement portion of his or her sentence; and 2) a person convicted of any Class C to Class E felony if the person has served 85 percent of the confinement portion of his or her

sentence. The bill eliminates the authority of the sentencing court to adjust the confinement portion of a sentence.

The bill allows the Earned Release Review Commission to discharge a person convicted of a violent Class F to Class I felony after he or she has served 75 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision. The bill allows the Earned Release Review Commission to discharge a person convicted of a Class C to Class E felony after he or she has served 85 percent of the extended supervision portion of his or her sentence without violating a rule or condition of extended supervision.

Under current law, a person sentenced under the "Truth in Sentencing" law serves a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community. With few exceptions, unless a person's sentence is adjusted by the sentencing court, a person may not be released to extended supervision until he or she has served the entire confinement portion of his or her sentence. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for a rule violation, current law requires the person's extended supervision to be reduced so that the total length of the person's sentence remains unchanged.

Under this bill, a person who is convicted of a nonviolent Class F to Class I felony must be released from confinement to extended supervision when he or she has served 66 percent of the confinement portion of his or her sentence, except that the confinement portion may be extended if the person violates a prison regulation. Under the bill, if a person's confinement portion is extended for a rule violation, the person's extended supervision is reduced so that the total length of the person's sentence remains unchanged.

Under current law, a person may not be discharged from extended supervision until after he or she serves the entire confinement portion and the entire extended supervision portion of his or her sentence.

Under this bill, a person who is convicted of a nonviolent Class F to Class I felony must be discharged from extended supervision when he or she completes 50 percent of the extended supervision portion of his or her sentence, if the person does not violate any rule or condition of his or her extended supervision.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 15.01 (2) of the statutes is amended to read:
- 2           15.01 (2) "Commission" means a 3-member governing body in charge of a
- 3           department or independent agency or of a division or other subunit within a

1 department, except for the Wisconsin waterways commission which shall consist of  
2 5 members and the parole earned release review commission which shall consist of  
3 8 members. A Wisconsin group created for participation in a continuing interstate  
4 body, or the interstate body itself, shall be known as a “commission”, but is not a  
5 commission for purposes of s. 15.06. The parole earned release review commission  
6 created under s. 15.145 (1) shall be known as a “commission”, but is not a commission  
7 for purposes of s. 15.06.✓

8 **SECTION 2.** 15.06 (6) of the statutes is amended to read:

9 15.06 (6) QUORUM. A majority of the membership of a commission constitutes  
10 a quorum to do business, except that vacancies shall not prevent a commission from  
11 doing business. This subsection does not apply to the parole earned release review  
12 commission.✓

13 **SECTION 3.** 15.145 (1) of the statutes is amended to read:

14 15.145 (1) PAROLE EARNED RELEASE REVIEW COMMISSION. There is created in the  
15 department of corrections ~~a parole~~ an earned release review commission consisting  
16 of 8 members. Members shall have knowledge of or experience in corrections or  
17 criminal justice. The members shall include a chairperson who is nominated by the  
18 governor, and with the advice and consent of the senate appointed, for a 2-year term  
19 expiring March 1 of the odd-numbered years, subject to removal under s. 17.07 (3m),  
20 and the remaining members in the classified service appointed by the chairperson.✓

21 **SECTION 4.** 17.07 (3m) of the statutes is amended to read:

22 17.07 (3m) Notwithstanding sub. (3), the parole earned release review  
23 commission chairperson may be removed by the governor, at pleasure.✓

24 **SECTION 5.** 20.410 (2) (title) of the statutes is amended to read:✓

25 20.410 (2) (title) PAROLE EARNED RELEASE REVIEW COMMISSION.✓

## SECTION 5

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

1       **SECTION 6.** 20.410 (2) (a) of the statutes is amended to read:

2       20.410 (2) (a) *General program operations.* The amounts in the schedule for  
3 the general program operations of the parole earned release review commission.✓

4       **SECTION 7.** 20.923 (4) (b) 6. of the statutes is amended to read:

5       20.923 (4) (b) 6. Parole Earned release review commission: chairperson.✓

6       **SECTION 8.** 230.08 (2) (pd) of the statutes is amended to read:

7       230.08 (2) (pd) The chairperson of the parole earned release review  
8 commission.✓

9       **SECTION 9.** 301.03 (3) of the statutes is amended to read:

10       301.03 (3) Administer parole, extended supervision and probation matters,  
11 except that the decision to grant or deny parole or to grant extended supervision  
12 under s. 304.06 (1)(b) to inmates shall be made by the parole earned release review  
13 commission and the decision to revoke probation, extended supervision or parole in  
14 cases in which there is no waiver of the right to a hearing shall be made by the  
15 division of hearings and appeals in the department of administration. The secretary  
16 may grant special action parole releases under s. 304.02. The department may  
17 discharge inmates from extended supervision under s. 973.01 (4m) and the earned  
18 release review commission may discharge inmates from extended supervision under  
19 s. 973.01 (4r).✓ The department shall promulgate rules establishing a drug testing  
20 program for probationers, parolees and persons placed on extended supervision. The  
21 rules shall provide for assessment of fees upon probationers, parolees and persons  
22 placed on extended supervision to partially offset the costs of the program.✓

23       **SECTION 10.** 301.048 (2) (am) 3. of the statutes is amended to read:

1           301.048 (2) (am) 3. The parole earned release review commission grants him  
2 or her parole under s. 304.06 and requires his or her participation in the program as  
3 a condition of parole under s. 304.06 (1x).✓

4           **SECTION 11.** 301.21 (1m) (c) of the statutes is amended to read:

5           301.21 (1m) (c) Any hearing to consider parole or whether to grant extended  
6 supervision, if the inmate is sentenced under s. 973.01 to which an inmate confined  
7 under this contract may be entitled by the laws of Wisconsin will be conducted by the  
8 Wisconsin parole earned release review commission under rules of the department.✓

9           **SECTION 12.** 301.21 (2m) (c) of the statutes is amended to read:

10          301.21 (2m) (c) Any hearing to consider parole or whether to grant extended  
11 supervision, if the prisoner is sentenced under s. 973.01 to which a prisoner confined  
12 under a contract under this subsection may be entitled by the laws of Wisconsin shall  
13 be conducted by the Wisconsin parole earned release review commission under rules  
14 of the department.✓

15          **SECTION 13.** 302.045 (3) of the statutes is amended to read:

16          302.045 (3) PAROLE ELIGIBILITY. Except as provided in sub. (4), if the department  
17 determines that an inmate serving a sentence other than one imposed under s.  
18 973.01 has successfully completed the challenge incarceration program, the parole  
19 earned release review commission shall parole the inmate for that sentence under  
20 s. 304.06, regardless of the time the inmate has served. When the parole earned  
21 release review commission grants parole under this subsection, it must require the  
22 parolee to participate in an intensive supervision program for drug abusers as a  
23 condition of parole.✓

24          **SECTION 14.** 302.05 (3) (b) of the statutes is amended to read:

1        302.05 (3) (b) Except as provided in par. (d), if the department determines that  
2        an eligible inmate serving a sentence other than one imposed under s. 973.01 has  
3        successfully completed a treatment program described in sub. (1), the parole earned  
4        release review commission shall parole the inmate for that sentence under s. 304.06,  
5        regardless of the time the inmate has served. If the parole earned release review  
6        commission grants parole under this paragraph, it shall require the parolee to  
7        participate in an intensive supervision program for drug abusers as a condition of  
8        parole.✓

9        **SECTION 15.** 302.11 (1g) (b) (intro.) of the statutes is amended to read:

10        302.11 (1g) (b) (intro.) Before an incarcerated inmate with a presumptive  
11        mandatory release date reaches the presumptive mandatory release date specified  
12        under par. (am), the parole earned release review commission shall proceed under  
13        s. 304.06 (1) to consider whether to deny presumptive mandatory release to the  
14        inmate. If the parole earned release review commission does not deny presumptive  
15        mandatory release, the inmate shall be released on parole. The parole earned release  
16        review commission may deny presumptive mandatory release to an inmate only on  
17        one or more of the following grounds:✓

18        **SECTION 16.** 302.11 (1g) (b) 2. of the statutes is amended to read:

19        302.11 (1g) (b) 2. Refusal by the inmate to participate in counseling or  
20        treatment that the social service and clinical staff of the institution determines is  
21        necessary for the inmate, including pharmacological treatment using an  
22        antiandrogen or the chemical equivalent of an antiandrogen if the inmate is a serious  
23        child sex offender as defined in s. 304.06 (1q) (a). The parole earned release review  
24        commission may not deny presumptive mandatory release to an inmate because of  
25        the inmate's refusal to participate in a rehabilitation program under s. 301.047.✓

1           **SECTION 17.** 302.11 (1g) (c) of the statutes is amended to read:

2           302.11 (1g) (c) If the parole earned release review commission denies  
3 presumptive mandatory release to an inmate under par. (b), the parole earned  
4 release review commission shall schedule regular reviews of the inmate's case to  
5 consider whether to parole the inmate under s. 304.06 (1).✓

6           **SECTION 18.** 302.11 (1g) (d) of the statutes is amended to read:

7           302.11 (1g) (d) An inmate may seek review of a decision by the parole earned  
8 release review commission relating to the denial of presumptive mandatory release  
9 only by the common law writ of certiorari.✓

10          **SECTION 19.** 302.11 (1m) of the statutes is amended to read:

11          302.11 (1m) An inmate serving a life term is not entitled to mandatory release.  
12 Except as provided in ss. 939.62 (2m) (c) and 973.014, the parole earned release  
13 review commission may parole the inmate as specified in s. 304.06 (1).✓

14          **SECTION 20.** 302.11 (7) (c) of the statutes is amended to read:

15          302.11 (7) (c) The parole earned release review commission may subsequently  
16 parole, under s. 304.06 (1), and the department may subsequently parole, under s.  
17 304.02, a parolee who is returned to prison for violation of a condition of parole.✓

18          **SECTION 21.** 302.113 (1) of the statutes is amended to read:

19          302.113 (1) An inmate is subject to this section if he or she was convicted of a  
20 Class B felony or a Class F to Class I felony that is not a violent offense, as defined  
21 in s. 301.048 (2) (bm) 1.✓ and is serving a bifurcated sentence imposed under s. 973.01.  
22 An inmate convicted of a Class C to Class E felony or a Class F to Class I felony that  
23 is a violent offense, as defined in s. 301.048 (2) (bm) 1.✓ may only be released to  
24 extended supervision under s. 304.06.✓



1           **SECTION 22.** <sup>✓</sup>302.113 (2) of the statutes is renumbered 302.113 (2) (a) and  
2 amended to read:

3           302.113 (2) (a) Except as provided in par. (b) <sup>✓</sup>and subs. (3) and (9), an inmate  
4 subject to this section is entitled to release to extended supervision after he or she  
5 has served the term of confinement in prison portion of the sentence imposed under  
6 s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)  
7 1., or 302.05 (3) (c) 2. a., ~~or 973.195 (1r)~~, if applicable. <sup>✓</sup>

8           **SECTION 23.** 302.113 (2) (b) of the statutes is created to read:

9           302.113 (2) (b) Except as provided in sub. (3), the department shall release an  
10 inmate subject to this section to extended supervision after he or she has served 66  
11 percent of the term of confinement in prison portion of the sentence imposed under  
12 s. 973.01, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b)  
13 1. or 302.05 (3) (c) 2. a., if applicable, if the inmate was convicted of a Class F to I  
14 felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1.

15           **SECTION 24.** 302.113 (3) (d) of the statutes is amended to read:

16           302.113 (3) (d) If the term of confinement in prison portion of a bifurcated  
17 sentence for a Class B felony is increased under this subsection, the term of extended  
18 supervision is reduced so that the total length of the bifurcated sentence does not  
19 change. <sup>✓</sup>

20           **SECTION 25.** 302.113 (3) (e) of the statutes is created to read:

21           302.113 (3) (e) If an inmate is released to extended supervision under sub. (2)  
22 (b) <sup>✓</sup>after he or she has served less than his or her entire confinement in prison portion  
23 of the sentence imposed under s. 973.01, <sup>✓</sup>the term of extended supervision is  
24 increased so that the total length of the bifurcated sentence does not change. <sup>✓</sup>

25           **SECTION 26.** 302.113 (7) of the statutes is amended to read:

1           302.113 (7) Any inmate released to extended supervision under this section is  
2     subject to all conditions and rules of extended supervision until the expiration of the  
3     term of extended supervision portion of the bifurcated sentence or until the  
4     department discharges the inmate under s. 973.01 (4m), whichever is appropriate.✓  
5     The department may set conditions of extended supervision in addition to any  
6     conditions of extended supervision required under s. 302.116, if applicable, or set by  
7     the court under sub. (7m) or s. 973.01 (5) if the conditions set by the department do  
8     not conflict with the court's conditions.✓

9           **SECTION 27.** 302.113 (9) (c) of the statutes is amended to read:

10          302.113 (9) (c) A person who is subsequently released to extended supervision  
11     after service of the period of time specified by the court under par. (am) is subject to  
12     all conditions and rules under subs. (7) and, if applicable, (7m) until the expiration  
13     of the remaining extended supervision portion of the bifurcated sentence or until the  
14     department discharges the person under s. 973.01 (4m),✓ whichever is appropriate.  
15     The remaining extended supervision portion of the bifurcated sentence is the total  
16     length of the bifurcated sentence, less the time served by the person in confinement  
17     under the bifurcated sentence before release to extended supervision under sub. (2)  
18     and less all time served in confinement for previous revocations of extended  
19     supervision under the bifurcated sentence.✓

20          **SECTION 28.** 302.114 (9) (c) of the statutes is amended to read:

21          302.114 (9) (c) A person who is subsequently released to extended supervision  
22     under par. (bm) is subject to all conditions and rules under sub. (8) until the  
23     expiration of the sentence or until the department discharges the person under s.  
24     973.01 (4m), whichever is appropriate.✓

25          **SECTION 29.** 304.01 (title) of the statutes is amended to read:

1           **304.01** (title) **Parole Earned release review commission and**  
2 **commission chairperson; general duties.**✓

3           **SECTION 30.** 304.01 (1) of the statutes is amended to read:

4           304.01 (1) The chairperson of the parole earned release review commission  
5 shall administer and supervise the commission and its activities and shall be the  
6 final ~~parole granting~~ authority for granting parole or release to extended  
7 supervision, except as provided in s. 304.02.✓

8           **SECTION 31.** 304.01 (2) (intro.) of the statutes is amended to read:

9           304.01 (2) (intro.) The ~~parole~~ earned release review commission shall conduct  
10 regularly scheduled interviews to consider the parole or release to extended  
11 supervision of eligible inmates of the adult correctional institutions under the  
12 control of the department of corrections, eligible inmates transferred under ch. 51  
13 and under the control of the department of health services and eligible inmates in  
14 any county house of correction. The department of corrections shall provide all of the  
15 following to the ~~parole~~ earned release review commission:✓

16           **SECTION 32.** 304.01 (2) (b) of the statutes is amended to read:

17           304.01 (2) (b) Scheduling assistance for ~~parole~~ interviews for prisoners who  
18 have applied for parole or release to extended supervision at the correctional  
19 institutions.✓

20           **SECTION 33.** 304.01 (2) (c) of the statutes is amended to read:

21           304.01 (2) (c) Clerical support related to the ~~parole~~ interviews for prisoners who  
22 have applied for parole or release to extended supervision.✓

23           **SECTION 34.** 304.01 (2) (d) of the statutes is amended to read:

1           304.01 (2) (d) Appropriate physical space at the correctional institutions to  
2           conduct the parole interviews for prisoners who have applied for parole or release to  
3           extended supervision.✓

4           **SECTION 35.** 304.06 (title) of the statutes is amended to read:

5           **304.06 (title) Paroles Release to parole or extended supervision from**  
6           **state prisons and house of correction.**✓

7           **SECTION 36.** 304.06 (1) (b) of the statutes is amended to read:

8           304.06 (1) (b) Except as provided in s. 961.49 (2), 1999 stats., sub. (1m) or s.  
9           302.045 (3), 302.05 (3) (b), 973.01 (6), or 973.0135, the parole earned release review  
10          commission may parole an inmate of the Wisconsin state prisons or any felon or any  
11          person serving at least one year or more in a county house of correction or a county  
12          reforestation camp organized under s. 303.07, when he or she has served 25% of the  
13          sentence imposed for the offense, or 6 months, whichever is greater. The earned  
14          release review commission may release to extended supervision a person sentenced  
15          under s. 973.01 for a Class F to Class I felony that is a violent offense, as defined in  
16          s. 301.048 (2) (bm), after the person has served at least 75 percent of the term of  
17          confinement in prison portion of the sentence. The earned release review  
18          commission may release to extended supervision a person sentenced under s. 973.01  
19          for a Class C to Class E felony after the person has served at least 85 percent of the  
20          term of confinement in prison portion of the sentence. Except as provided in s. 939.62  
21          (2m) (c) or 973.014 (1) (b) or (c), (1g) or (2), the parole earned release review  
22          commission may parole an inmate serving a life term when he or she has served 20  
23          years, as modified by the formula under s. 302.11 (1) and subject to extension under  
24          s. 302.11 (1q) and (2), if applicable. The person serving the life term shall be given  
25          credit for time served prior to sentencing under s. 973.155, including good time under

1 s. 973.155 (4). The secretary may grant special action parole releases under s.  
2 304.02. The department or the parole earned release review commission shall not  
3 provide any convicted offender or other person sentenced to the department's custody  
4 any parole eligibility or evaluation for parole or release to extended supervision until  
5 the person has been confined at least 60 days following sentencing. ✓

6 **SECTION 37.** 304.06 (1) (bn) of the statutes is created to read:

7 304.06 (1) (bn) The earned release review commission may consider any of the  
8 following in determining whether to release to extended supervision a person who  
9 is sentenced under s. 973.01 ✓ for a Class C to Class E felony or for a Class F to Class  
10 I felony that is a violent offense, as defined in s. 301.048 (2) (bm) ✓  
as a ground for a petition under parol (bg) ✓ for

11 1. The inmate's conduct, efforts at and progress in rehabilitation, or  
12 participation and progress in education, treatment, or other correctional programs  
13 since he or she was sentenced. ✓

14 2. The inmate is subject to a sentence of confinement in another state or the  
15 inmate is in the United States illegally and may be deported. ✓

16 3. Sentence adjustment is otherwise in the interests of justice. ✓

17 **SECTION 38.** 304.06 (1) (br) of the statutes is created to read:

18 304.06 (1) (br) The earned release review commission may reduce the term of  
19 confinement of a person who is sentenced under s. 973.01 ✓ for a Class C to Class E  
20 felony or for a Class F to Class I felony that is a violent offense, as defined in s.  
21 301.048 (2) (bm) ✓ only as follows:

22 1. If the inmate is serving the term of confinement in prison portion of the  
23 sentence, a reduction in the term of confinement in prison by the amount of time  
24 remaining in the term of confinement in prison portion of the sentence, less up to 30  
25 days, and a corresponding increase in the term of extended supervision. ✓

1           2. If the inmate is confined in prison upon revocation of extended supervision,  
2           a reduction in the amount of time remaining in the period of confinement in prison  
3           imposed upon revocation, less up to 30 days, and a corresponding increase in the term  
4           of extended supervision.✓

5           **SECTION 39.** 304.06 (1) (c) (intro.) of the statutes is amended to read:

6           304.06 (1) (c) (intro.) If an inmate applies for parole or release to extended  
7           supervision under this subsection, the parole earned release review commission  
8           shall make a reasonable attempt to notify the following, if they can be found, in  
9           accordance with par. (d):✓

10          **SECTION 40.** 304.06 (1) (d) 1. of the statutes is amended to read:

11          304.06 (1) (d) 1. The notice under par. (c) shall inform the offices and persons  
12          under par. (c) 1. to 3. of the manner in which they may provide written statements  
13          under this subsection, shall inform persons under par. (c) 3. of the manner in which  
14          they may attend interviews or hearings and make statements under par. (eg) and  
15          shall inform persons under par. (c) 3. who are victims, or family members of victims,  
16          of crimes specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~, (2), or (3), 948.02 (1)  
17          or (2), 948.025, 948.06 or 948.07 of the manner in which they may have direct input  
18          in the parole decision-making process under par. (em) for parole or release to  
19          extended supervision. The parole earned release review commission shall provide  
20          notice under this paragraph for an inmate's first application for parole or release to  
21          extended supervision and, upon request, for subsequent applications for parole or  
22          release to extended supervision.✓

23          **SECTION 41.** 304.06 (1) (e) of the statutes is amended to read:

24          304.06 (1) (e) The parole earned release review commission shall permit any  
25          office or person under par. (c) 1. to 3. to provide written statements. The parole

1 earned release review commission shall give consideration to any written statements  
2 provided by any such office or person and received on or before the date specified in  
3 the notice. This paragraph does not limit the authority of the parole earned release  
4 review commission to consider other statements or information that it receives in a  
5 timely fashion.✓

6 **SECTION 42.** 304.06 (1) (eg) of the statutes is amended to read:

7 304.06 (1) (eg) The parole earned release review commission shall permit any  
8 person under par. (c) 3. to attend any interview or hearing on the parole application  
9 for parole or release to extended supervision of an applicable inmate and to make a  
10 statement at that interview or hearing.✓

11 **SECTION 43.** 304.06 (1) (em) of the statutes is amended to read:

12 304.06 (1) (em) The parole earned release review commission shall promulgate  
13 rules that provide a procedure to allow any person who is a victim, or a family  
14 member of a victim, of a crime specified in s. 940.01, 940.03, 940.05, 940.225 (1) ~~or~~,  
15 (2), ~~or (3)~~, 948.02 (1) or (2), 948.025, 948.06 or 948.07 to have direct input in the parole  
16 decision-making process for parole or release to extended supervision.✓

17 **SECTION 44.** 304.06 (1) (f) of the statutes is amended to read:

18 304.06 (1) (f) The parole earned release review commission shall design and  
19 prepare cards for persons specified in par. (c) 3. to send to the commission. The cards  
20 shall have space for these persons to provide their names and addresses, the name  
21 of the applicable prisoner and any other information the parole earned release  
22 review commission determines is necessary. The parole earned release review  
23 commission shall provide the cards, without charge, to district attorneys. District  
24 attorneys shall provide the cards, without charge, to persons specified in par. (c) 3.  
25 These persons may send completed cards to the parole earned release review

1 commission. All commission records or portions of records that relate to mailing  
2 addresses of these persons are not subject to inspection or copying under s. 19.35 (1).  
3 Before any written statement of a person specified in par. (c) 3. is made a part of the  
4 documentary record considered in connection with a parole hearing for parole, or  
5 release to extended supervision under this section, the parole earned release review  
6 commission shall obliterate from the statement all references to the mailing  
7 addresses of the person. A person specified in par. (c) 3. who attends an interview  
8 or hearing under par. (eg) may not be required to disclose at the interview or hearing  
9 his or her mailing addresses.✓

10 **SECTION 45.** 304.06 (1) (g) of the statutes is amended to read:

11 304.06 (1) (g) Before a person is released on parole or released to extended  
12 supervision under this subsection, the parole earned release review commission  
13 shall so notify the municipal police department and the county sheriff for the area  
14 where the person will be residing. The notification requirement under this  
15 paragraph does not apply if a municipal department or county sheriff submits to the  
16 parole earned release review commission a written statement waiving the right to  
17 be notified. If applicable, the department shall also comply with s. 304.063.✓

18 **SECTION 46.** 304.06 (1m) (intro.) of the statutes is amended to read:

19 304.06 (1m) (intro.) The parole earned release review commission may waive  
20 the 25% or 6-month service of sentence requirement under sub. (1) (b) under any of  
21 the following circumstances:✓

22 **SECTION 47.** 304.06 (1q) (b) of the statutes is amended to read:

23 304.06 (1q) (b) The parole earned release review commission or the department  
24 may require as a condition of parole that a serious child sex offender undergo  
25 pharmacological treatment using an antiandrogen or the chemical equivalent of an



1 antiandrogen. This paragraph does not prohibit the department from requiring  
2 pharmacological treatment using an antiandrogen or the chemical equivalent of an  
3 antiandrogen as a condition of probation.✓

4 **SECTION 48.** 304.06 (1q) (c) of the statutes is amended to read:

5 304.06 (1q) (c) In deciding whether to grant a serious child sex offender release  
6 on parole under this subsection, the ~~parole~~ earned release review commission may  
7 not consider, as a factor in making its decision, that the offender is a proper subject  
8 for pharmacological treatment using an antiandrogen or the chemical equivalent of  
9 an antiandrogen or that the offender is willing to participate in pharmacological  
10 treatment using an antiandrogen or the chemical equivalent of an antiandrogen.✓

11 **SECTION 49.** 304.06 (1x) of the statutes is amended to read:

12 304.06 (1x) The ~~parole~~ earned release review commission may require as a  
13 condition of parole that the person is placed in the intensive sanctions program under  
14 s. 301.048. In that case, the person is in the legal custody of the department under  
15 that section and is subject to revocation of parole under sub. (3).✓

16 **SECTION 50.** 304.06 (2m) (d) of the statutes is amended to read:

17 304.06 (2m) (d) The ~~parole~~ earned release review commission or the  
18 department shall determine a prisoner's county of residence for the purposes of this  
19 subsection by doing all of the following:

20 1. The ~~parole~~ earned release review commission or the department shall  
21 consider residence as the voluntary concurrence of physical presence with intent to  
22 remain in a place of fixed habitation and shall consider physical presence as prima  
23 facie evidence of intent to remain.✓

24 2. The ~~parole~~ earned release review commission or the department shall apply  
25 the criteria for consideration of residence and physical presence under subd. 1. to the

1 facts that existed on the date that the prisoner committed the serious sex offense that  
2 resulted in the sentence the prisoner is serving.✓

3 **SECTION 51.** 304.071 (1) of the statutes is amended to read:

4 304.071 (1) The parole earned release review commission may at any time  
5 grant a parole or release to extended supervision to any prisoner in any penal  
6 institution of this state, or the department may at any time suspend the supervision  
7 of any person who is on probation ~~or~~, parole, or extended supervision to the  
8 department, if the prisoner or person on probation ~~or~~, parole, or extended supervision  
9 is eligible for induction into the U.S. armed forces. The suspension of parole,  
10 extended supervision, or probation shall be for the duration of his or her service in  
11 the armed forces; and the parole, extended supervision, or probation shall again  
12 become effective upon his or her discharge from the armed forces in accordance with  
13 regulations prescribed by the department. If he or she receives an honorable  
14 discharge from the armed forces, the governor may discharge him or her and the  
15 discharge has the effect of a pardon. Upon the suspension of parole, extended  
16 supervision, or probation by the department, the department shall issue an order  
17 setting forth the conditions under which the parole, extended supervision, or  
18 probation is suspended, including instructions as to where and when and to whom  
19 the ~~paroled~~ person on parole or extended supervision shall report upon discharge  
20 from the armed forces.✓

21 **SECTION 52.** 809.30 (1) (c) of the statutes is amended to read:

22 809.30 (1) (c) "Postconviction relief" means an appeal or a motion for  
23 postconviction relief in a criminal case, other than an appeal, motion, or petition  
24 under ss. 302.113 (7m), 302.113 (9g), 973.19, ~~973.195~~, 974.06, or 974.07 (2). In a ch.

1 980 case, the term means an appeal or a motion for postcommitment relief under s.  
2 980.038 (4).<sup>✓</sup>

3 **SECTION 53.** 911.01 (4) (c) of the statutes is amended to read:

4 911.01 (4) (c) *Miscellaneous proceedings.* Proceedings for extradition or  
5 rendition; sentencing, granting or revoking probation, modification of a bifurcated  
6 sentence under s. 302.113 (9g), ~~adjustment of a bifurcated sentence under s. 973.195~~  
7 ~~(1r)~~ release to extended supervision under s. 302.113 (2) (b) or 304.06 (1) (b) or  
8 discharge under s. 973.01 (4m) or (4r),<sup>✓</sup> issuance of arrest warrants, criminal  
9 summonses and search warrants; hearings under s. 980.09 (2); proceedings under s.  
10 971.14 (1) (c); proceedings with respect to pretrial release under ch. 969 except where  
11 habeas corpus is utilized with respect to release on bail or as otherwise provided in  
12 ch. 969.<sup>✓</sup>

13 **SECTION 54.** 950.04 (1v) (f) of the statutes is amended to read:

14 950.04 (1v) (f) To have the parole earned release review commission make a  
15 reasonable attempt to notify the victim of applications for parole or release to  
16 extended supervision, as provided under s. 304.06 (1).<sup>✓</sup>

17 **SECTION 55.** 950.04 (1v) (gm) of the statutes is amended to read:

18 950.04 (1v) (gm) To have reasonable attempts made to notify the victim of  
19 petitions for ~~sentence adjustment as provided~~ release to extended supervision under  
20 s. ~~973.195 (1r) (d)~~ 302.113 (2) (b) or 304.06 (1) (b) or discharge under s. 973.01 (4m)  
21 or (4r).<sup>✓</sup>

22 **SECTION 56.** 973.01 (4) of the statutes is repealed.

23 **SECTION 57.** 973.01 (4) of the statutes is amended to read:

24 973.01 (4) ~~NO GOOD TIME; EXTENSION~~ EXTENSION OR REDUCTION OF TERM OF  
25 IMPRISONMENT. A person sentenced to a bifurcated sentence under sub. (1) shall serve

1 the term of confinement in prison portion of the sentence without reduction for good  
2 behavior. The term of confinement in prison portion is subject to extension under s.  
3 302.113 (3) and, if applicable, to reduction under s. 302.045 (3m), 302.05 (3) (c) 2. a.,

4 302.113 (2) (b) or (9g), or 973.195 (1r) 304.06 (1) (b). *adjustment under*  
*so 302.113 (2) (b) or*

5 **SECTION 58.** 973.01 (4m) of the statutes is created to read:

6 973.01 (4m) GOOD TIME CREDIT TOWARD DISCHARGE FROM EXTENDED SUPERVISION.  
7 Notwithstanding sub. (2) (d), a person convicted of a Class F to Class I felony that *sentenced to a bifurcated*  
8 is not a violent offense, as defined in s. 301.048 (2) (bm) 1., is eligible to earn good time *sentence under sub. (1) for*  
9 credit in the amount of one day for every day served without violating a rule or  
10 condition of extended supervision. The department of corrections shall reduce the  
11 length of the person's extended supervision to reflect good time earned by the person  
12 under this subsection.

13 **SECTION 59.** 973.01 (4r) of the statutes is created to read:

14 973.01 (4r) APPLICATION FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.  
15 Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub.  
16 (1) for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2)  
17 (bm), may apply to the earned release review commission to have his or her period  
18 of extended supervision reduced after he or she has served 75 percent of the extended  
19 supervision portion of the sentence.

20 2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence  
21 under sub. (1) for a Class C to Class E felony may apply to the earned release review  
22 commission to have his or her period of extended supervision reduced after he or she  
23 has served 85 percent of the extended supervision portion of the sentence.

1 (b) The earned release review commission may reduce the length of a person's  
2 period of extended supervision if it finds that the person has met the conditions of  
3 extended supervision and a reduction is in the interests of justice.

4 **SECTION 60.** 973.01 (7) of the statutes is amended to read:

5 973.01 (7) ~~NO DISCHARGE~~ DISCHARGE. The department of corrections may not  
6 shall discharge a person who is serving a bifurcated sentence from custody, control  
7 and supervision ~~until~~ when the person has served the entire bifurcated sentence, as  
8 modified under sub. (4m) or (4r) and s. 302.113 (2) (b) or 304.06 (1) (b), if applicable.

9 **SECTION 61.** 973.01 (8) (a) 2. of the statutes is amended to read:

10 973.01 (8) (a) 2. The amount of time the person will serve in prison under the  
11 term of confinement in prison portion of the sentence, and the date upon which the  
12 person is eligible to be released to extended supervision under s. 302.113 (2) (b) or  
13 the date upon which the person may apply for release to extended supervision under  
14 s. 304.06.

15 **SECTION 62.** 973.01 (8) (a) 3. of the statutes is amended to read:

16 973.01 (8) (a) 3. The amount of time the person will spend on extended  
17 supervision, assuming that the person does not commit any act that results in the  
18 extension of the term of confinement in prison under s. 302.113 (3), and the date upon  
19 which the person may be eligible for discharge under sub. (4m) or apply for a  
20 reduction of his or her period of extended supervision under sub. (4r).

21 **SECTION 63.** 973.195 of the statutes is repealed.

22 **SECTION 64.** 974.07 (4) (b) of the statutes is amended to read:

23 974.07 (4) (b) Notwithstanding the limitation on the disclosure of mailing  
24 addresses from completed information cards submitted by victims under ss. 51.37  
25 (10) (dx), 301.046 (4) (d), 301.048 (4m) (d), 301.38 (4), 302.105 (4), 304.06 (1) (f),

1 304.063 (4), 938.51 (2), 971.17 (6m) (d), and 980.11 (4), the department of corrections,  
2 the ~~parole~~ earned release review commission, and the department of health services  
3 shall, upon request, assist clerks of court in obtaining information regarding the  
4 mailing address of victims for the purpose of sending copies of motions and notices  
5 of hearings under par. (a).✓

6 SECTION 65. 976.03 (23) (c) of the statutes is amended to read:

7 976.03 (23) (c) The application shall be verified by affidavit, shall be executed  
8 in duplicate and shall be accompanied by 2 certified copies of the indictment  
9 returned, or information and affidavit filed, or of the complaint made to a judge,  
10 stating the offense with which the accused is charged, or of the judgment of  
11 conviction or of the sentence. The prosecuting officer, ~~parole~~ earned release review  
12 commission, warden or sheriff may also attach such further affidavits and other  
13 documents in duplicate as he, she or it deems proper to be submitted with the  
14 application. One copy of the application, with the action of the governor indicated  
15 by endorsement thereon, and one of the certified copies of the indictment, complaint,  
16 information and affidavits, or of the judgment of conviction or of the sentence shall  
17 be filed in the office of the governor to remain of record in that office. The other copies  
18 of all papers shall be forwarded with the governor's requisition.✓

19

(END)

#3

33% = 1 day for every 2 off

25% = 1 day for every 3

15% = 1 day for every 5.64 days

~~3.5?~~

XXXXXX

XXXX

XXXXXX

5.77%

Adam @  
Kawfer

XXXXXXXX

~~1 ÷ 5.77 = 85.100~~  
1000

XXXXXX

XXXXXXXX 1 ÷ 3 = 25%

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1768/P3ins  
PJH:jld&wlj:md

**INSERT ANALYSIS 1:**

> Under current law, a person who is imprisoned for a felony he or she committed prior to December 31, 1999, may petition the Parole Commission in DOC to be released to parole after the person has served 25 percent of his or her sentence. The Parole Commission determines whether, and under what conditions, the person should be released to parole. A person who committed a felony on or after December 31, 1999, is sentenced to a bifurcated sentence, with the first portion of the sentence served in confinement and the second portion served under extended supervision in the community.

such > A person who is serving a bifurcated sentence is not eligible for parole and, with few exceptions, must serve the entire confinement portion of his or her sentence before being released to extended supervision. A person's confinement portion may be extended if he or she violates a prison regulation. If a person's confinement portion is extended for a rule violation, current law requires his or her extended supervision portion to be reduced so that the total length of the person's sentence remains unchanged.

> Current law allows a person who is sentenced to a bifurcated sentence for a Class C to Class I felony to petition the sentencing court to adjust his or her sentence and release the person from prison to extended supervision if he or she has served 85 percent (for Class C to Class E felonies) or 75 percent (for Class F to Class I felonies) of the confinement in prison portion of the sentence. If a person's confinement portion is reduced by the sentencing court, current law requires his or her extended supervision portion to be extended so that the total length of the person's sentence remains unchanged.

Under current law, a person who is released to extended supervision must serve his or her entire sentence before extended supervision terminates.

Under this bill, a person who commits a nonviolent Class F to Class I felony, except for certain sex offenders, may earn "positive adjustment time" in the amount of one day for every two days he or she is incarcerated without violating a prison rule or regulation. The bill requires DOC to release the person to extended supervision when he or she serves his entire incarceration period, minus positive adjustment time earned. Under the bill, if a person's incarceration period is reduced by positive adjustment time, his or her period of extended supervision is increased so that the length of the sentence does not change.

Under this bill, a person who commits a violent Class F to Class I felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every three days he or she is incarcerated without violating a prison rule or regulation, and a person who commits a Class C to Class E felony, except for certain sex offenders, may earn positive adjustment time in the amount of one day for every 5.7 days he or she is incarcerated without violating a prison rule or regulation.

> The bill renames the Parole Commission the Earned Release Review Commission (EERC) and, in addition to its duties, the EERC may consider a petition from a person who commits a violent Class F to Class I felony or a Class C to Class E felony

EERC

CLASS

EERC

the Parole Commission's current

for release



INSERT 20.3:

SECTION 3. 973.01 (4r) of the statutes is created to read:

973.01 (4r) APPLICATION <sup>PETITION</sup> FOR REDUCTION OF EXTENDED SUPERVISION. (a) 1.

Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub. (1) for a Class F to Class I felony that is a violent offense, as defined in s. 301.048 (2) (bm), may earn good time toward the reduction of extended supervision in the amount of one day for every 3 days that he or she serves without violating a condition of extended supervision. The person may petition to the earned release review commission to have his or her period of extended supervision reduced when he or she has served the extended supervision portion of his or her sentence, less good time he or she has earned.

2. Notwithstanding sub. (2) (d), a person sentenced to a bifurcated sentence under sub. (1) for a Class C to Class E felony may earn good time toward the reduction of extended supervision in the amount of one day for every 5.7 days that he or she serves without violating a condition of extended supervision. The person may petition to the earned release review commission to have his or her period of extended supervision reduced when he or she has served the extended supervision portion of his or her sentence, less good time he or she has earned.

(b) The earned release review commission may reduce the length of a person's period of extended supervision if it finds that the person has met the conditions of extended supervision and a reduction is in the interests of justice.

Consider as grounds for  
a petition under  
para (a) to

ERRC

after the person serves his entire incarceration period, minus positive adjustment time earned. The bill eliminates the authority of the trial court to adjust sentences. Under the bill, if the ERRC reduces the term of confinement portion of a person's sentence because the person has earned positive adjustment time, the person's term of extended supervision is increased so that the length of the sentence does not change.

Under the bill, a person who is released to extended supervision for a nonviolent Class F to I felony may earn "good time" toward discharge from extended supervision in the amount of one day for every day he or she serves on extended supervision without violating a condition of extended supervision. The bill requires DOC to discharge from extended supervision a person who serves his or her entire extended supervision time, minus good time earned.

Under the bill, a person who is released to extended supervision for a violent Class F to Class I felony may earn "good time" toward discharge from extended supervision in the amount of one day for every three days he or she serves on extended supervision without violating a condition of extended supervision. A person who is released to extended supervision for a Class C to Class E felony may earn "good time" toward discharge from extended supervision in the amount of one day for every 5.7 he or she serves on extended supervision without violating a condition of extended supervision. Under the bill, the ERRC may discharge from extended supervision a person convicted of a violent Class F to Class I felony or a person convicted of a Class C to Class E felony after he or she serves his entire period of extended supervision, minus good time earned.

INSERT 8:14

SECTION 1. 302.113<sup>^</sup> (2) (b) of the statutes is created to read:

302.113 (2) (b) An inmate sentenced under s. 973.01 for a Class F to I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1. may earn one day of positive adjustment time for every 2 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned duties. An inmate convicted of a Class F to I felony that is not a violent offense, as defined in s. 301.048 (2) (bm) 1. shall be released to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1. or 302.05 (3) (c) 2. a., if applicable, less positive adjustment time he or she has

earned. This ~~section~~ <sup>paragraph</sup> does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

INSERT 12.5:

SECTION 2. 304.06 (1) (bg) of the statutes is created to read:

304.06 (1) (bg) 1. A person sentenced under s. 973.01 for <sup>Class</sup> a Class F to I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1. may earn one day of positive adjustment time for every 3 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required or assigned

duties. An inmate convicted of a Class F to <sup>Class</sup> I felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1. may petition the earned release review commission for release to extended supervision when he or she has served the term of confinement in prison portion of his or her bifurcated sentence, as modified by the

sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1. or <sup>or 302.113 (9g)</sup> 302.05 (3) (c) 2. a., if applicable, less positive adjustment time he or she has earned. This ~~section~~ <sup>subdivision</sup> does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).

2. A person sentenced under s. 973.01 for <sup>Class</sup> a Class C to E felony may earn one day of positive adjustment time for every 5.7 days served that he or she does not violate any regulation of the prison or does not refuse or neglect to perform required

or assigned duties. An inmate convicted of a Class C to <sup>Class</sup> E felony that is a violent offense, as defined in s. 301.048 (2) (bm) 1. may petition the earned release review commission for release to extended supervision when he or she has served the term

of confinement in prison portion of his or her bifurcated sentence, as modified by the sentencing court under sub. (9g) or s. 302.045 (3m) (b) 1. or <sup>or 302.113 (9g)</sup> 302.05 (3) (c) 2. a., if

applicable, less positive adjustment time he or she has earned. This ~~section~~ <sup>subdivision</sup> does not apply to a person who is the subject of a bulletin issued under s. 301.46 (2m).